

**ORDINANCE NO. 28427****AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY SITUATED ON THE NORTHWEST CORNER OF TULLY ROAD AND KENESTA WAY (1935 TULLY ROAD) TO CN COMMERCIAL NEIGHBORHOOD ZONING DISTRICT**

**WHEREAS**, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

**WHEREAS**, the area encompassed by the subject proposed rezoning under File No. C07-099 was the subject of an Environmental Impact Report (EIR) prepared in conformance with the California Environmental Quality Act of 1970, as amended (CEQA), and certified by the City Council by resolution adopted on August 16, 1994; and

**WHEREAS**, this Council of the City of San José, acting as lead agency under CEQA, proposes to approve a project which was the subject of said EIR, to wit: the adoption of an ordinance rezoning certain real property hereinafter described to CN Commercial Neighborhood Zoning District; and

**WHEREAS**, this Council has, on August 16, 1994, adopted Resolution No. 65459 related to said EIR; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to CN Commercial Neighborhood Zoning District; and

**WHEREAS**, this Council does hereby certify that, as a decision-making body, it has considered and approves the information contained in such EIR and Resolution No. 65459 prior to acting upon or approving such proposed project.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:**

**SECTION 1.** All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as CN - Commercial Neighborhood.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit A attached hereto and incorporated herein by this reference.

**SECTION 2.** The district map of the City is hereby amended accordingly.

**SECTION 3.** The land development approval that is the subject of City File No. C07-099 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

**PASSED FOR PUBLICATION** of title this 21<sup>st</sup> day of October, 2008, by the following vote:

AYES: CHIRCO, CHU, CONSTANT, CORTESE, LICCARDO, NGUYEN,  
OLIVERIO, PYLE, WILLIAMS, REED.

NOES: NONE.

ABSENT: CAMPOS.

DISQUALIFIED: NONE.

---

CHUCK REED  
Mayor

ATTEST:

---

LEE PRICE, MMC  
City Clerk